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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte M. SALAHUDDIN KHAN and MATTHEW FRIEDERICH

Appeal 2008-0135
Application 09/784,660¹
Technology Center 2600

Decided: February 13, 2008

Before KENNETH W. HAIRSTON, SCOTT R. BOALICK,
and MARC S. HOFF, *Administrative Patent Judges*.

BOALICK, *Administrative Patent Judge*.

DECISION ON APPEAL

¹ Application filed February 15, 2001. The real party in interest is NAVTEQ North America, LLC.

This is an appeal under 35 U.S.C. § 134(a) from the final rejection of claim 19.² We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

STATEMENT OF THE CASE

Appellants' invention relates to a navigation system that uses automatic speech recognition to obtain input from a user. (Spec. 1:5-6.)

Claim 19, the only claim on appeal, is reproduced below:

19. A system that provides geographic information and that is formed of component systems comprising:

a positioning system that determines a current location of a vehicle in a region;

an automatic speech recognition system that matches data representations of words spoken by a user of the vehicle to a word list of data representations of spoken names of geographic features,

wherein the word list of data representations of spoken names of geographic features includes only a portion of all available data representations of spoken names of geographic features, and wherein the word list includes

a first part that changes to include different words as the vehicle travels in the region such that

² Claims 1-21 are pending in the application. Claims 1-18 and 20-21 have been allowed.

the first part includes words for names of geographic features in proximity to the current location of the vehicle;

a second part that does not change to include different words as the vehicle travels in the region and that includes words for names of selected geographic features located throughout the region,

and wherein both the first part and the second part are available to the automatic speech recognition system at the same time.

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Wakisaka	US 6,112,174	Aug. 29, 2000
Zavoli	US 6,598,016 B1	Jul. 22, 2003

Claim 19 stands rejected under 35 U.S.C. § 103(a) as being obvious over Wakisaka and Zavoli.

Rather than repeat the arguments of Appellants or the Examiner, we make reference to the Briefs and the Answer for their respective details. Only those arguments actually made by Appellants have been considered in this decision. Arguments that Appellants did not make in the Briefs have not been considered and are deemed to be waived. *See* 37 C.F.R. § 41.37(c)(1)(vii).³

³ Except as will be noted in this opinion, Appellants have not presented any substantive arguments directed separately to the patentability of the

ISSUE

The issue is whether Appellants have shown that the Examiner erred in rejecting claim 19 under 35 U.S.C. § 103(a). The issue turns on whether Wakisaka and Zavoli, alone or in combination, teach or suggest a word list having "a first part that changes . . . as the vehicle travels," "a second part that does not change . . . as the vehicle travels," and "wherein both the first part and the second part are available to the automatic speech recognition system at the same time," as claimed.

PRINCIPLES OF LAW

All timely filed evidence and properly presented arguments are considered by the Board in resolving an obviousness issue on appeal. *See In re Piasecki*, 745 F.2d 1468, 1472 (Fed. Cir. 1984).

In the examination of a patent application, the Examiner bears the initial burden of showing a *prima facie* case of unpatentability. *Id.* at 1472. When that burden is met, the burden then shifts to the applicant to rebut. *Id.*; *see also In re Harris*, 409 F.3d 1339, 1343-44 (Fed. Cir. 2005) (finding rebuttal evidence unpersuasive). If the applicant produces rebuttal evidence of adequate weight, the *prima facie* case of unpatentability is dissipated. *In re Piasecki*, 745 F.2d at 1472. Thereafter, patentability is determined in view of the entire record. *Id.* However, on appeal to the Board it is an

dependent claims or related claims in each group. In the absence of a separate argument with respect to those claims, they stand or fall with the representative independent claim. *See* 37 C.F.R. § 41.37(c)(1)(vii).

appellant's burden to establish that the Examiner did not sustain the necessary burden and to show that the Examiner erred. See *In re Kahn*, 441 F.3d 977, 985-86 (Fed. Cir. 2006) ("On appeal to the Board, an applicant can overcome a rejection [for obviousness] by showing insufficient evidence of *prima facie* obviousness or by rebutting the *prima facie* case with evidence of secondary indicia of nonobviousness.") (quoting *In re Rouffet*, 149 F.3d 1350, 1355 (Fed. Cir. 1998)).

"Section 103 forbids issuance of a patent when 'the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.'" *KSR Int'l Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 1734 (2007).

In *KSR*, the Supreme Court reaffirmed that "[t]he combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results." *Id.* at 1739. The Court explained:

When a work is available in one field of endeavor, design incentives and other market forces can prompt variations of it, either in the same field or a different one. If a person of ordinary skill can implement a predictable variation, § 103 likely bars its patentability. For the same reason, if a technique has been used to improve one device, and a person of ordinary skill in the art would recognize that it would improve similar devices in the same way, using the technique is obvious

unless its actual application is beyond his or her skill.

Id. at 1740. The Court also explained that:

[o]ften, it will be necessary . . . to look to interrelated teachings of multiple patents; the effects of demands known to the design community or present in the marketplace; and the background knowledge possessed by a person having ordinary skill in the art, all in order to determine whether there was an apparent reason to combine the known elements in the fashion claimed by the patent at issue.

Id. at 1740-41. The Court noted that "[t]o facilitate review, this [obviousness] analysis should be made explicit." *Id.* at 1741 (citing *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006) ("[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness")). However, "the analysis need not seek out precise teachings directed to the specific subject matter of the challenged claim, for a court can take account of the inferences and creative steps that a person of ordinary skill in the art would employ." *Id.*

The Court noted that "[i]n many fields it may be that there is little discussion of obvious techniques or combinations, and it often may be the case that market demand, rather than scientific literature, will drive design trends." *KSR*, 127 S. Ct. at 1741. "Under the correct analysis, any need or

problem known in the field of endeavor at the time of invention and addressed by the patent can provide a reason for combining the elements in the manner claimed." *Id.* at 1742. The Court also noted that "[c]ommon sense teaches . . . that familiar items may have obvious uses beyond their primary purposes, and in many cases a person of ordinary skill will be able to fit the teachings of multiple patents together like pieces of a puzzle." *Id.* "A person of ordinary skill is also a person of ordinary creativity, not an automaton." *Id.*

During examination of a patent application, a claim is given its broadest reasonable construction consistent with the specification. *In re Prater*, 415 F.2d 1393, 1404-05 (CCPA 1969). "[T]he words of a claim 'are generally given their ordinary and customary meaning.'" *Phillips v. AWH Corp.*, 415 F.3d 1303, 1312 (Fed. Cir. 2005) (en banc) (internal citations omitted). The "ordinary and customary meaning of a claim term is the meaning that the term would have to a person of ordinary skill in the art in question at the time of the invention, i.e., as of the effective filing date of the patent application." *Id.* at 1313.

ANALYSIS

Appellants contend that the Examiner erred in rejecting claim 19 as being obvious over Wakisaka and Zavoli. Reviewing the record, we do not agree. In particular, we find that the Appellants have not shown that the Examiner failed to make a prima facie showing of obviousness with respect

to claim 19. Appellants failed to meet the burden of overcoming that prima facie showing.

Appellants argue that neither Wakisaka nor Zavoli teach or suggest a word list having a first part that changes as the vehicle travels and a second part that does not change as the vehicle travels, where both the first part and the second part are available to the automatic speech recognition system at the same time, as claimed. (Br. 7-10.) In particular, Appellants contend that "Zavoli explicitly discloses that the two modules VR1 and VR2 are not both available for automatic speech recognition at the same time." (Br. 7.) According to Appellants, "Wakisaka and Zavoli both disclose using only a single dictionary at a time" (Br. 10) and "[t]hus, if Wakisaka and Zavoli were combined, the result would not disclose a speech recognition system that uses two dictionaries at the same time." (Br. 10.) We do not agree.

As the Examiner correctly found, Zavoli teaches that modules VR1 and VR2 provide for two separate dictionaries such that the dictionary for VR1 is used for numbers and simple commands and the dictionary for VR2 is used for street names for a particular map. (Ans. 4; Zavoli col. 5, ll. 20-31.) Thus, VR1 and VR2 respectively correspond to the recited "second part" and "first part" of the word list.

The Examiner also correctly found that the two separate dictionaries are available to the automatic speech recognition system at the same time. (Ans. 4-7.) We agree with the Examiner that Zavoli, by teaching that the user can "enter a building number and street name (e.g., 24 Main Street)" (Zavoli col. 7, ll. 26-27), suggests that both VR1 (which recognizes

numbers) and VR2 (which recognizes street names) must be available at the same time to function properly. (Ans. 5-7.) We further agree with the Examiner that, by teaching that if the "system recognizes[] *anything other than* a digit or the cross street command, then module Geo stays in the Geo Start state" (col. 6, ll. 43-51 (emphasis added)), Zavoli suggests that both dictionaries must be available at the same time. (Ans. 5-6.)

To the extent Appellants argue that modules VR1 and VR2 of Zavoli are not *used* by the automatic speech recognition system at the same time (Br. 8, 10), that argument is not commensurate with the scope of claim 19. Claim 19 merely requires the two dictionaries to be *available* to the automatic speech recognition system at the same time. As discussed, Zavoli teaches this feature.

The Examiner also found that it would have been obvious to apply the teachings of Zavoli to the system of Wakisaka so that a user always has access to the most pertinent word list for speech recognition because, during a trip, the present location information changes but the destination information does not change. (Ans. 4-5, 8.) In addition, Zavoli teaches that, by having VR1 only include numbers and commands, speech will be recognized more reliably in a very small amount of time (Zavoli, col. 5, l. 65 to col. 6, l. 9) and VR1 can be used with multiple maps because it does not contain data specific to a particular map (Zavoli, col. 6, ll. 10-14). VR2 is used to store map specific words (Zavoli, col. 6, ll. 15-17). A person of ordinary skill in the art would have understood that the system of Wakisaka, which uses multiple maps that change as the vehicle moves from one area to

another area (*see, e.g.*, Wakisaka col. 2, l. 22 to col. 3, l. 45), could be improved in the same way by implementing the teachings of Zavoli.

Accordingly, we conclude that the Appellants have not shown that the Examiner erred in rejecting claim 19 under 35 U.S.C. § 103(a).

CONCLUSION OF LAW

Based on the findings of facts and analysis above, we conclude that Appellants have not shown that the Examiner erred in rejecting claim 19.

DECISION

The rejection of claim 19 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

Appeal 2008-0135
Application 09/784,660

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NAVTEQ NORTH AMERICA, LLC
425 West RANDOLPH STREET
SUITE 1200, PATENT DEPT
CHICAGO IL 60606